

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ANOKA

TENTH JUDICIAL DISTRICT
CASE TYPE: CIVIL OTHER

Court File No. 02-CV-24-6730

In re Assignment for Benefit of Creditors of:

Northern Wholesale Supply, LLC and its subsidiaries B2C, LLC, Northern Sales & Consulting, LLC, Rocky Mountain RV, LLC, RV Excessories, LLC, and Southwest RV Parts Direct, LLC¹

**ASSIGNEE'S MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR APPROVAL OF
SALE OF ASSIGNMENT PROPERTY FREE
AND CLEAR OF LIENS**

INTRODUCTION

This proceeding is an assignment for benefit of creditors as provided for under Minn. Stat. §§ 576 and 577. Lighthouse Management Group, Inc., in its role as “Assignee” of assets of Assignors Northern Wholesale Supply, LLC (“NWS”) and its wholly-owned subsidiaries B2C, LLC, Northern Sales & Consulting, LLC, Rocky Mountain RV, LLC, RV Excessories, LLC, and Southwest RV Parts Direct, LLC (collectively with NWS, “Assignors”), is charged with the duties and given the powers to act for the benefit of creditors. In short, the Assignee operates under the direction of the Court for the collective benefit of the Assignors’ creditors. Pursuant to Minn. Stat. § 576.46, the Assignee moves the Court to approve the sale of assignment property free and clear of all liens, claims, and encumbrances to NWS Acquisition, LLC (“Buyer”), an affiliate of Sun Capital Partners, Inc., for a purchase price of \$28 million in cash, subject to certain adjustments. The proposed sale maximizes the value of the assets, preserves the business of Assignors as a going concern including for the benefit of creditors of Assignors, saves approximately 200 jobs, and has the support of the Assignors’ secured lender. In stark contrast, the alternative to approval

¹ B2C, LLC, Northern Sales & Consulting, LLC, Rocky Mountain RV, LLC, RV Excessories, LLC, and Southwest RV Parts Direct, LLC are wholly-owned subsidiaries of Northern Wholesale Supply, LLC.

of the sale is a going out of business liquidation of the assets, which will result in the loss of significant value and jobs. Accordingly, the Court should approve the sale.

BACKGROUND

I. THE PARTIES

A. Assignors Northern Wholesale Supply, LLC and Its Subsidiaries

Assignors NWS and its wholly-owned subsidiaries B2C, LLC, Northern Sales & Consulting, LLC, Rocky Mountain RV, LLC, RV Excessories, LLC, and Southwest RV Parts Direct, LLC executed an Assignment on November 15, 2024. (Affidavit of Robert Cleary (“Cleary Aff.”) ¶ 2.) The Assignment was filed with this Court on the same day, which commenced this assignment for benefit of creditors proceeding.

B. Assignee Lighthouse Management Group, Inc.

Lighthouse Management Group, Inc. is the “Assignee” under this assignment for benefit of creditors. (Affidavit of Timothy Becker (“Becker Aff.”) ¶ 11.) Pursuant to the terms of the Assignment and applicable Minnesota law, the Assignee is charged with conducting Assignors’ business, taking possession and control of Assignor’s property, and selling that property for the benefit of Assignors’ creditors. (*Id.*) Lighthouse Management Group, Inc. has served as assignee or receiver on more than one hundred cases and principally in Minnesota. (*Id.* ¶ 3.)

C. JPMorgan Chase, N.A., Administrative Agent of Secured Lenders

JPMorgan Chase, N.A. (“JPMorgan”), as administrative agent for certain secured lenders, has made loans to Assignors, which have an outstanding balance totaling more than \$60 million. (*Id.* ¶ 12.) The loans are secured by a first-priority security interest in substantially all of Assignors’ assets, which now constitute assignment property. (*Id.*)

D. Buyer NWS Acquisition, LLC

After extensive marketing efforts described in greater detail below, the Buyer submitted an offer to purchase certain assets and acquire certain contracts of the Assignors, which now constitute assignment property, pursuant to the terms of the Asset Purchase Agreement dated November 18, 2024 (the “APA”).² (*Id.* ¶ 13.) The Buyer is an affiliate of Sun Capital Partners, Inc. (“Sun Capital”). (*Id.*) Neither the Buyer nor Sun Capital have any affiliation with the Assignors or any of their insiders. (*Id.*)

The Assignee has determined that the APA is the highest and best offer for the Acquired Assets (as defined in the APA) and is in the best interests of creditors. (*Id.*) The Assignee has filed this motion for approval of the Assignee’s entry into the APA, related sale documentation including any bills of sale and assignment agreements, and for authority to sell the assets to the Buyer free and clear of all liens, pledges, charges, security interests, claims or other encumbrances in respect of the Acquired Assets.

II. NWS’S BUSINESS, ASSETS, AND THE ASSETS TO BE INCLUDED IN THE PROPOSED SALE

NWS is a leading distributor and manufacturer of recreation parts and accessories in the marine, RV, and powersports markets. (Affidavit of Robert Cleary (“Cleary Aff.”) ¶ 3.) NWS partners with over 500 manufacturers to offer over 30,000 products, including a number of well-known inhouse brands. (*Id.*) NWS serves a customer base that ranges from wholesale and retail dealers, to original equipment manufacturers, to retail customers through eCommerce platforms. (*Id.*) The non-NWS Assignors are wholly owned subsidiaries of NWS, and conduct no business independent of NWS. (*Id.*)

² Except as otherwise defined herein, all capitalized terms have the meaning ascribed to them in the APA.

NWS was founded in 1984. (*Id.* ¶ 4.) NWS experienced significant revenue growth in 2021 and 2022 driven by increased demand from post-pandemic consumer behavior, which NWS ramped up to meet. (*Id.*) That period of growth was followed by excess inventory, inflation, and interest rate hikes, which impacted companies throughout NWS's industry. (*Id.*) By the end of 2023, an industry recession caused NWS revenue to substantially decrease, which adversely impacted NWS's cash flow and its ability to meet its debt obligations. (*Id.*)

As part of its continuing strategic assessment of the business, in April 2024, NWS's board of directors hired Fort Dearborn Partners as Chief Restructuring Officer to assist with management and to sell the Assignors' assets. (*Id.* ¶ 5.) Fort Dearborn Partners' retention and role was also supported by JPMorgan. (*Id.*) As described in more detail below, Fort Dearborn Partners implemented an exhaustive search for a buyer and, along with the rest of NWS's management and the Assignee, after identifying the offer submitted by the Buyer as the highest and best offer received through the sale process, negotiated on a good faith, arms-length basis, the terms of the APA with the Buyer and presented to the Court. (*Id.*) To align and incentivize interests, Fort Dearborn Partners, NWS's chief executive officer, and NWS's chief financial officer are each entitled to a 1.5% success fee from the aggregate gross consideration realized from a transaction, for a total of 4.5% of the aggregate gross consideration. (*Id.*) In addition, NWS's chief executive officer and chief financial officer are entitled to a retention bonus of \$101,250 and \$62,929, respectively. (*Id.*) The success fees and retention bonuses were supported and approved by NWS's board of directors and JPMorgan. (*Id.*) The success fees and retention bonuses are further supported and approved by the Assignee. (*Id.*)

III. THE ASSIGNMENT FOR BENEFIT OF CREDITORS

On November 15, 2024, each of the Assignors entered into an Assignment with Lighthouse Management Group, Inc. as Assignee. (Docket Entry No. 1.) Pursuant to the Assignment, the Assignee is authorized to conduct the Assignors' business and take possession of all property of the Assignors. (*Id.*) The Assignments were filed with the Court on the same day, commencing this assignment for benefit of creditors pursuant to Minn. Stat. § 577 *et. al.* (*Id.*)

The Assignee has taken control of NWS's bank accounts,³ which hold approximately \$10 million in funds. (Becker Aff. ¶ 15.) The funds are subject to a perfected security interest of JPMorgan on behalf of certain lenders, as described in more detail below. (*Id.*) The Assignee has been in contact with JPMorgan and expects to utilize a portion of these funds, subject to JPMorgan's continuing consent, to pay necessary expenses to continue the operations of the business and preserve the value of the Assignors' assets, including employee payroll and benefits and for goods and services received on or after the commencement of this proceeding. (*Id.*) To accomplish this, the Assignee expects to coordinate directly with JPMorgan, including by providing weekly cash forecasts. (*Id.*)

IV. THE PROPOSED SALE

The Assignee has reviewed the marketing and sale procedures led by Fort Dearborn Partners and NWS's management, and believes that the sale process was fair, reasonable, and appropriate and the proposed sale to the Buyer provides the highest and best value for the Acquired Assets. (*Id.* ¶ 17.) The Assignee sees no path to a higher or better proposal than that submitted by the Buyer. (*Id.*) In fact, the alternative to approval of the sale is a going out of business liquidation of the assets, which will result in the loss of significant value and jobs. (*Id.*)

³ Other than NWS, only Rocky Mountain RV, LLC and B2C, LLC have separate bank accounts, which are swept daily by JPMorgan and have a minimal balance.

A. Marketing and Sale Process

To maximize the value of NWS's business and assets, NWS and Fort Dearborn Partners conducted an extensive marketing process beginning in May 2024. (Cleary Aff. ¶ 6.) Throughout this process, NWS and Fort Dearborn Partners kept JPMorgan informed and solicited its input. (*Id.*)

NWS and Fort Dearborn Partners had an appraisal done of inventory and performed a quality of earnings analysis. (*Id.* ¶ 7.) Fort Dearborn Partners, with NWS's management's assistance, prepared a Confidential Information Memorandum, summarizing, among other things, NWS's business, financial performance, and industry opportunities. (*Id.*)

To generate market interest, NWS and Fort Dearborn Partners developed an extensive prospects list consisting of almost 200 prospective purchasers ranging from strategic buyers in the industry to financial buyers to other prospects. (*Id.* ¶ 8.) Fort Dearborn Partners solicited these prospective purchasers through a teaser, emails and phone calls. (*Id.*) More than 40 prospects signed a non-disclosure agreement and received the Confidential Information Memorandum and access to other confidential information in a data room. (*Id.*) Fort Dearborn and NWS also engaged in discussions with each of the prospective purchasers. (*Id.*)

Based on these extensive marketing efforts, four prospective purchasers submitted formal indication of interest letters. (*Id.* ¶ 9.) A fifth party submitted, in writing and through phone discussion, general proposed terms of a contemplated transaction, which NWS and NWS's advisors determined was insufficient when compared to the other offers. (*Id.*) NWS and Fort Dearborn Partners engaged in further discussions and negotiations with the four potential purchasers that submitted formal indications of interests. (*Id.*) These discussions and negotiations included in-person meetings with prospective purchasers and NWS's management. (*Id.*)

Following these additional meetings and negotiations, NWS and Fort Dearborn Partners determined that the Buyer submitted the highest and best offer for the Acquired Assets. (*Id.*) JPMorgan separately determined that the offer submitted by the Buyer was the highest and best offer for the Acquired Assets and agreed to consent to the sale to the Buyer, free and clear of its liens, claims, and encumbrances. (*Id.*)

B. The Proposed Sale

The Buyer and NWS negotiated an Asset Purchase Agreement (“APA”), a copy of which is attached to the Declaration of Timothy Becker as Exhibit B, pursuant to which the Buyer proposes to purchase the Acquired Assets free and clear of all liens, pledges, charges, security interests, claims, or other encumbrances in respect of the Acquired Assets and acquire certain Acquired Contracts for a purchase price consisting of \$28 million in cash, subject to certain adjustments, plus Buyer’s assumption and payment of certain post-Closing liabilities arising under the Acquired Contracts. (Becker Aff. ¶ 18.)

The Acquired Assets under the APA consist of substantially all of the assets of the Assignors and are itemized on Schedule A to the APA. (*Id.* ¶ 19.) The Acquired Assets specifically *exclude* cash, cash equivalents and bank accounts, NWS’s lease with respect to its White Bear Lake Facility, and all accounts payable. (*Id.*) None of the Assignors own any real property, so no real property assets are included in the sale. (*See id.*)

The Buyer intends to continue operating the business, in particular at NWS’s Lino Lakes facility, preserving approximately 200 jobs. (*Id.* ¶ 20.) The specific terms of the proposed sale are set forth in the APA.⁴ (*Id.*) The following is a summary of the key provisions:

Acquired Assets:	All operating assets; see above. Section 1.2 and Schedules A and B to APA.
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⁴ To the extent of any conflict between the terms of the APA and this memorandum, the terms of the APA control.

Purchase Price:	\$28 million, plus assumption of Assumed Contract Liabilities, minus the Estimated Transaction Expenses, subject to a working capital adjustment. Section 2.1(a) of APA.
Payment of Purchase Price:	Cash, subject to an escrow and certain adjustments. Section 2.1(b) of APA.
Assumed Liabilities:	Liabilities under the Acquired Contracts first arising from and after the Closing and relating solely to the post-Closing period. Buyer is assuming no other liabilities. Sections 1.3(e) and 3 of APA.
Acquired Contracts:	Identified on Schedule A to the APA at subparagraph (c).
Contingencies:	Approval of the APA by the Court and other conditions set forth in Section 7 of APA.
Type of Sale:	Except as otherwise provided in the APA, as-is, where-is. Section 1.4 of APA.

(See generally APA.)

C. Parties Claiming an Interest in the Acquired Assets

JPMorgan, as administrative agent for certain lenders, is the only party holding a perfected security interest in the Acquired Assets. (Becker Aff. ¶ 21.) NWS and the other Assignors are parties to a Credit Agreement dated March 15, 2022 with JPMorgan, as administrative agent. (*Id.*) Pursuant to the Credit Agreement and other Loan Documents (as defined in the Credit Agreement), the Lenders (as defined in the Credit Agreement) made available to the Assignors certain loans and advances, which are secured by a first-priority security interest in substantially all assets of each of the Assignors. (*Id.*) JPMorgan, as administrative agent, perfected its security interests by filing with respect to each of the Assignors a UCC-1 with the Delaware Department of State on or about March 15, 2022. (*Id.*) The Assignee has not identified any other parties claiming liens against the Acquired Assets, including for unpaid real estate taxes or assessments, or liens arising under federal law. (*Id.*) As of the date of commencement of this Assignment, the Assignors owed the Lenders in excess of \$60 million. (*Id.*)

D. Use of Sale Proceeds

The Assignee proposes to use the sale proceeds to satisfy: (a) if any, unpaid real estate tax liens or assessments or federal liens relating to the Acquired Assets,⁵ (b) all expenses incurred in the disposition of the Acquired Assets, including Assignee fees, attorney fees, broker fees of Fort Dearborn Partners, a success fee and retention bonus to NWS' chief executive officer and chief financial officer, and other costs and expenses, (c) any amounts required to cure any defaults or other obligations under the Acquired Contracts arising or accruing prior to the Closing, and (d), in part, the secured obligations Assignors owe to the Lenders. (*Id.* ¶ 22.) The Assignee expects that, after application of the sale proceeds, the Lenders will have a deficiency claim of over \$25 million. (*Id.*) The Assignee understands that JPMorgan and the Lenders support the proposed sale as the best outcome under the circumstances and have agreed to release any and all liens, claims, or interests on the Acquired Assets on or before Closing with such liens, claims, or interests attaching to the proceeds of the sale. (*Id.*)

E. Other Creditors

From the Assignee's review of the Assignors' records, it appears that the Assignors have approximately 170 unsecured creditors that are collectively owed approximately \$13 million. (*Id.* ¶ 23.) By definition, such unsecured creditors do not have liens in the Acquired Assets and rank behind JPMorgan with respect to any right to payment from the proceeds of the Acquired Assets. (*Id.*) The Assignee understands that post-closing of the APA the Buyer intends to continue to conduct business with many of the existing suppliers of NWS. (*Id.*)

⁵ As noted above, the Assignee does not currently believe that any such unpaid liens or assessments exist.

F. Service of Motion

The Assignee is serving this motion in compliance Minn. Stat. § 576.35, subd. 2 and 4.⁶ This includes service on the Assignors, JPMorgan, the Buyer, and all specifically identified counterparties to Acquired Contracts, including by email where available. (*Id.* ¶ 24.) In addition, the Assignee is serving this motion on the twenty-five largest unsecured creditors, including by email, and is providing notice of this motion and the hearing on this motion to all known creditors and counterparties to contracts that are not Acquired Contracts by U.S. Mail and e-mail, and providing easy access to the full motion papers to all parties in interest. (*Id.*)

ARGUMENT

I. THE ASSIGNEE HAS STATUTORY AUTHORITY TO SELL THE ACQUIRED ASSETS FREE AND CLEAR AND ASSIGN THE ACQUIRED CONTRACTS.

Chapter 577 of the Minnesota Statutes authorizes and governs an assignment for benefit of creditors. It provides that “[e]xcept as otherwise provided in this chapter [577], an assignee shall be treated as a general receiver, the assignment property shall be treated as receivership property, and all proceedings following the filing of the assignment shall be governed by sections 576.21 to 576.53.” Minn. Stat. § 577.18. Section 576.46, in turn, provides that the court may authorize a receiver to sell receivership property “free and clear of all liens.” Minn. Stat. § 576.46, subd. 1(a). The court may approve a sale “free and clear” even if the sale does not generate proceeds sufficient to fully satisfy all liens on the property. *Id.* Upon such a sale, “all liens encumbering the property conveyed shall transfer and attach to the proceeds of the sale, net

⁶ Minn. Stat. § 576.35, subd. 2 requires the Assignee to maintain and file a “master service list” consisting of contact information of the Assignee, the Assignors, all persons joined as parties in the receivership, all persons known by the Assignee to have asserted any ownership or lien in assignment property, all persons who have filed a notice of appearance, and their attorneys, if any (the “Master Service List”). Minn. Stat. § 576.35, subd. 4 requires this motion to be served on all persons on the Master Service List, “all persons who have asserted an ownership interest or lien in receivership property that is the subject of the motion, all persons who are identified in the motion as directly affected by the relief requested, and other persons as the court may direct.”

of reasonable expenses.” Minn. Stat. § 576.46, subd. 1(c). The statute protects the validity of a “free and clear sale” to a good faith purchaser, even if the court’s approval is reversed or modified on appeal, unless the authorization and sale is stayed pending the appeal. Minn. Stat. § 576.46, subd. 4.

In conjunction with a sale of assets, an assignee also has the power to assign contracts to a buyer. Specifically, Minn. Stat. § 576.45 provides that “[f]or good cause, the court may authorize a receiver to assign and delegate an executory contract to a third party under the same circumstances and under the same conditions as the respondent was permitted to do so pursuant to the terms of the executory contract and applicable law immediately before the time of appointment.” Minn. Stat. § 576.45, subd. 2.

When exercising statutory and other authority in receiverships and assignments for benefit of creditors including approving the sale of assets, district courts are vested with broad discretion “to do what is best for all concerned.” *Minnesota Hotel Co. v. ROSA Dev. Co.*, 495 N.W.2d 888, 893 (Minn. Ct. App. 1993); *see also Sibley County Bank v. Crescent Milling Co.*, 201 N.W. 618, 620 (Minn. 1925) (“In a receivership matter the court is constantly using its discretionary power. It does that which it deems best for all interested.”). “A district court’s exercise of its equitable powers is reviewed for an abuse of discretion.” *Equity Trust Co. v. Cole*, 766 N.W.2d 334, 338 (Minn. Ct. App. 2009); *see also Community First Bank v. First United Funding, LLC*, 822 N.W.2d 306, 310 (Minn. Ct. App. 2012) (describing that because a receivership is an equitable remedy, the trial court has discretion to do what is best for all concerned and stating that appellate courts “review the district court’s equitable determinations for an abuse of discretion”).

Sales free and clear are routinely approved in assignments for the benefit of creditors and receiverships. *See MMCDC New Markets Fund XXXVIII, LLC v. Wayzata-Bemidji Hospitality*

Associates, LLC, et. al., 4-CV-16-2000 (Minn. Dist. Ct. April 5, 2018) (approving receiver's sale of assets free and clear of liens, including over objection of junior creditor); *In re Cima NanoTech, Inc.*, No. 27-CV-17-7082 (Minn. Dist. Ct. July 10, 2017) (approving sale of assets free and clear of liens in assignment for the benefit of creditors); *Regan v. Regan et al.*, No. 27-CV-16-960 (Minn. Dist. Ct. July 22, 2016) (authorizing receiver to sell certain receivership property free and clear of liens); *In re: Valley Forest Wood Products, LLC*, No. 31-CV-12-3177 (Minn. Dist. Ct. Dec. 11, 2012) (approving sale of assets free and clear of liens in assignment for the benefit of creditors); *In re: Lakeside Medical Center, Inc.*, No. 58-CV-22-54 (Minn. Dist. Ct. Aug. 7, 2023) (approving sale of real estate free and clear of liens in assignment for the benefit of creditors); *A/SL DF V, LLC v. NK-G Properties, LLC, et al.*, No. 31-CV-22-2730 (Minn. Dist. Ct. Oct. 9, 2024) (approving sale of real estate free and clear of liens in receivership case).⁷

II. THE COURT SHOULD APPROVE THE SALE OF THE ACQUIRED ASSETS TO THE BUYER FREE AND CLEAR OF LIENS.

The Court should exercise its discretion and authorize the Assignee to sell the Acquired Assets to the Buyer in accordance with the terms of the APA because the proposed sale maximizes the value of the Acquired Assets and complies with all applicable requirements.

A. The Proposed Sale Maximizes Value.

The proposed sale to the Buyer maximizes the value of the Acquired Assets and the net amount available to creditors. Seasoned professionals have exhaustively marketed these assets and have negotiated the best deal under the circumstances. As noted above, Fort Dearborn Partners and NWS's management solicited almost 200 prospective purchasers. Their efforts generated interest from many prospects and resulted at least four letters of interest, and culminated in the

⁷ Copies of each of these Orders are attached as Exhibit A to the Affidavit of Ryan Murphy in Support of the Assignee's Motion for Approval of Sale of Assignment Property Free and Clear of Liens ("Murphy Affidavit").

APA with the Buyer, which provided for the highest and best purchase price. The APA is the result of arms-length, good faith negotiations and represents the highest and best value to the creditors of the Assignors. There simply is no better alternative. Indeed, the only other alternative is for Assignee to cease operations of Assignors' business and liquidate assets through a going out of business sale, which will result in the loss of millions of dollars of value and more than 200 jobs.

B. The Proposed Sale Complies with All Applicable Requirements.

In addition to satisfying the overarching goal of maximizing value for creditors, the proposed sale should be approved because it complies with the statutory requirements for a sale free and clear. The proposed sale complies with the provisions of Minn. Stat. § 576.46, which authorizes an assignee's sale of assignment property "free and clear of all liens, except any lien for unpaid real estate taxes or assessments and liens arising under federal law" regardless of whether the sale will "generate proceeds sufficient to fully satisfy all liens on the property[.]" Minn. Stat. § 576.46, subd. 1(a). If a holder of a lien objects, the court should only sustain the objection if it finds that "the amount likely to be realized from the sale by the objecting person is less than the objecting person would realize within a reasonable time in the absence of this sale." *Id.*

JPMorgan, the only secured creditor, supports the sale free and clear of its liens, despite the fact that it will receive sale proceeds far below the amount owed. JPMorgan's position is telling. If it were possible to achieve greater value than as provided for in the APA with the Buyer, JPMorgan, as the holder of tens of millions of dollars of secured claims that will not be paid, would be incentivized to pursue that value. As evidenced by JPMorgan's consent, it is unfortunately not possible to realize any higher value.

Moreover, even if a party asserting a lien on the Acquired Assets objected to the proposed sale under Minn. Stat. § 576.46, such objection should be overruled because the amount that would be realized from the sale is greater than any lienholder would realize within a reasonable time in the absence of the sale. JPMorgan, which holds the first priority security interest, is not being paid in full. Accordingly, any junior lienholder that objected to the proposed sale would have to propose an alternative transaction that paid JPMorgan in full and left additional proceeds for junior lienholders. Given the history of the marketing of these assets, that cannot be accomplished.

Section 576.46 also provides that, upon any sale free and clear of liens, all liens encumbering the property sold shall transfer and attach to the proceeds of the sale, net of reasonable expenses, in the same order, priority, and validity as the liens had with respect to the property immediately before the sale. Minn. Stat. § 576.46, subd. 1(c). The proposed sale complies with that requirement, as the Assignee's proposed order provides that sale proceeds will be used to pay (a) unpaid real estate tax liens or assessments or federal liens relating to the Acquired Assets (again, the Assignee does not believe there are any), (b) all expenses incurred in the disposition of the Acquired Assets, including Assignee fees, attorney fees, broker fees of Fort Dearborn Partners, a success fee and retention bonus of NWS' chief executive officer and chief financial officer, and other costs and expenses, (c) any amounts required to cure any defaults or other obligations under the Acquired Contracts arising or accruing prior to the Closing, and (d) in part, the secured obligations Assignors owe to the Lenders.

Accordingly, the proposed sale complies with all statutory requirements of a sale free and clear of liens and should be approved.

C. The Buyer is a Good Faith Purchaser.

The Buyer was selected through an open, competitive marketing process, and has no

affiliation, common identity, or continuation of enterprise with the Assignors. Fort Dearborn Partners fully and adequately marketed the assets and conducted a non-collusive and fair sale process. Potential purchasers were provided a full and fair opportunity to participate in the process to purchase the Acquired Assets and the APA with the Buyer was deemed the highest and best offer for the Acquired Assets. The APA was negotiated at arm's length and in a non-collusive manner. The Buyer is purchasing the Acquired Assets in good faith and for fair and reasonable consideration. Therefore, the Buyer is a good faith purchaser of the Acquired Assets. As a good faith purchaser, it is entitled to all of the protections provided to a good faith purchaser under Minn. Stat. § 576.46.

D. The Proposed Assignment of the Acquired Contracts Should be Approved.

In connection with the sale, the Court should also authorize the Assignee to assign to the Buyer, pursuant to Minn. Stat. § 576.45, the Acquired Contracts. The assignment of the Acquired Contracts is a critical component of the value of NWS's business and is a condition of the sale. In connection with the Closing of the APA, the Assignee will be paying any amounts presently due under the Assigned Contracts. The Buyer has agreed to assume the Assignors' obligations to perform under such Acquired Contracts for periods after the Closing Date, which reduces claims that such counterparties could have for Assignors' failure to perform.

E. Expedited Relief is Appropriate Under the Circumstances.

Pursuant to Rule 115.07 of the Minnesota General Rules of Practice, the Court is authorized to shorten the time limits otherwise established by Rule 115 of the Minnesota General Rules of Practice if the interests of justice so require. The Assignee respectfully submits that an expedited hearing is appropriate for this motion. A hearing on less than full notice is critical to maximize the value of the assets, preserves the business of the Assignors as a going concern including for

the benefit of the Assignors' creditors, saves approximately 200 jobs, and minimizes expenses and, accordingly, has the support of the Assignors' secured lender. The alternative to approval of the sale is a going out of business liquidation of the assets, which will result the loss of significant value and jobs.

CONCLUSION

For the reasons set forth above, the Assignee respectfully requests that the Court approve the proposed sale of the Acquired Assets to the Buyer free and clear of all liens, pledges, charges, security interests, claims, or other encumbrances in respect of the Acquired Assets pursuant to Minn. Stat. § 576.46 and enter the proposed order submitted by the Assignee.

Dated: November 19, 2024

/s/ Ryan T. Murphy

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